

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, January 14, 2021
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Zoom / City of Muskegon Government Facebook Page

AGENDA

- I. Roll Call
- II. Approval of Minutes from the regular meeting of December 10, 2020.
- III. Public Hearing
 - A. Hearing, Case 2021-01: Request for a departure from the form based code section of the zoning ordinance to allow a 5 foot by 17 foot ground sign at 1021 Jefferson St, by General Capital.
 - B. Hearing, Case 2021-02: Request to amend section 2331 of the zoning ordinance to include 885 E Apple Ave in the marihuana facilities overlay district, by Khi Guy.
 - C. Hearing, Case 2021-03: Request for a departure from the parking ordinance and the window transparency ordinance at 623 and 639 W Clay Ave, by 639 W Clay Ave, LLC.
- IV. Unfinished Business
- V. New Business
- VI. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon 24- hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or

calling the following:
Ann Meisch, City Clerk
933 Terrace Street
Muskegon MI 49440

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

December 10, 2020

Chairperson T. Michalski called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: J. Montgomery-Keast (Muskegon MI), L. Spataro (Muskegon MI), B. Larson (Muskegon MI), B. Mazade (Muskegon MI), T. Michalski (Muskegon MI), J. Doyle (Muskegon MI), F. Peterson (Muskegon MI), S. Gawron (Muskegon MI), E. Hood (Muskegon MI)

MEMBERS ABSENT: None

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: Via Zoom: C. Roberts, 7189 W 104th, Fremont MI; M. Gross, Brooklyn NY; K. Hallman, 296 W Webster Ave; M. Dobry, attorney for St. Pauls' Episcopal Church; D. Kamps, Step Up; D. Henrickson, 2325 Belmont Center Dr, Belmont MI; D. Johnson, Harbor 31; S. Achram, Paradigm Design for Harbor 31; A. Murphy, 142 Viridian Dr; T. Vitale, attorney with Smith Haughey Rice & Roegge, PC; M. Marcil, 670 Terrace Pt Dr

APPROVAL OF MINUTES

A motion to approve the Minutes of the regular Planning Commission meeting of November 12, 2020 was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved.

OLD BUSINESS

Hearing, Case 2020-18: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusiness and designated consumption establishment at 420 S Harvey St by Michigan Canna House, LLC. This case was originally heard at the October meeting, where the public hearing occurred and was closed. The case was then tabled by the board. The applicant has stated that he wishes to bring the case back before the board for a decision. He also has a separate case to be heard under New Business at this meeting, which requests different types of licenses.

M. Franzak stated that he was still working on crafting a microbusiness ordinance, but it would not cover Mr. Roberts's request. J. Montgomery-Keast asked if the microbusiness licenses were only meant for caregivers. M. Franzak stated that microbusinesses were allowed in the same districts as caregivers but they were not reserved for only caregivers.

There was no public hearing held at this meeting, as it was held at the October meeting. L. Spataro stated that a motion should be made so the board could discuss it.

A motion that that request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities

overlay district to allow for microbusinesses and designated consumption establishments at 420 S Harvey St, by Michigan Canna House, LLC be approved, was made by S. Gawron and supported by B. Larson, with discussion continuing on the motion.

C. Roberts had prepared a presentation on the request, which he presented to the board. He stated that this request was similar to his last request but it had been edited to include a license for Processor. B. Mazade stated that his concern with this request was that it wasn't something that the city intended to allow with the revised marihuana ordinance staff was working on. M. Franzak stated that Mr. Roberts was requesting retail sales, which was not covered by the ordinance being worked on. C. Roberts further detailed his request. He stated that this case involved his request for a microbusiness; his other application for the different license types would be heard under New Business. L. Spataro stated that these types of requests would be much easier for staff, the board, and applicants to navigate once the ordinance was in place. M. Franzak pointed out that Mr. Roberts was asking to amend the ordinance. J. Montgomery-Keast stated that she was not opposed to a microbusiness at this location, but it was confusing since there were no parameters listed. B. Mazade stated that it was a fluid situation and suggested that the city may want to issue a moratorium on these requests until the ordinance was in place.

A vote was taken on the motion to approve the request. The motion failed, with T. Michalski and B. Larson voting aye, and J. Montgomery-Keast, L. Spataro, B. Mazade, J. Doyle, F. Peterson, S. Gawron, and E. Hood voting nay.

Hearing, Case 2020-20: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for MMFLA and MRMTA Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St by P & G Holdings, LLC. This case was originally heard at the November meeting; The public hearing was closed and the case was tabled by the Planning Commission. It is now being brought back to the board for a vote.

A motion to remove the case from the table so it could be voted on by the board, was made by B. Mazade, supported by B. Larson and unanimously approved.

The property at 920 Washington was recently approved as part of the marihuana facilities overlay district for retail-provisioning license types. The property owner would now like to expand the types of marihuana licenses allowed on site, which also includes buildings 965 W Western Ave and 1330 Division St. This request would allow all growing license types, processing licenses and provisioning/retail licenses at 965 W Western Ave, 920 Washington Ave and 1330 Division St. Staff recommends approval of the request at 965 W Western Ave and 920 Washington Ave in an effort to redevelop the properties. Notices were sent to property owners and occupants within 300 feet of the subject properties; staff received communication from some of the neighbors who were opposed to the request.

A motion that that request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for MMFLA and MRMTA Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St by P & G Holdings, LLC be recommended to the City Commission for approval was made by F. Peterson and supported by E. Hood, with discussion continuing on the motion.

L. Spataro asked if staff had a recommendation and if the request was consistent with the new marihuana ordinance being crafted by staff. M. Franzak stated that it was not consistent with what staff was proposing for the microbusiness ordinance; however, this property was approved earlier in the year for provisioning and retail uses. This latest request was an opportunity to spur redevelopment of the building. J. Doyle asked why it had been previously mentioned that time was running out on this project. M. Franzak stated that the building was deteriorating. T. Michalski asked if this request was for a special use permit. M. Franzak

stated that it was not; it was similar to the previous request. F. Peterson stated that he saw this case differently from the previous one. He discussed the property's history and stated that this building was one that the city had been trying to get the owners to develop for some time. In addition, the City Commission had previously approved the property for selected marihuana-related uses. He stated that resources were now available to help further develop the property and it was important to leverage those. M. Gross stated that the marihuana business would create cash flow needed for redevelopment of the condos. J. Doyle asked if the Planning Commission could put a deadline on the condo development to ensure that it was completed. F. Peterson stated that he would have to check with the city's attorney on that. T. Michalski asked if it could be included as a recommendation in the motion. M. Franzak stated that he didn't think a development agreement could be tied in with the zoning ordinance but if the condo development didn't happen, staff could propose that the Planning Commission remove the property from the marijuana district. J. Doyle stated he would be comfortable with that and he would like it added to the motion. M. Franzak stated that it could be added as a suggestion, but it wouldn't be binding. B. Mazade stated that he was not in favor of the request, but asked if J. Doyle's suggestion could be incorporated through contract zoning. M. Franzak stated that he would have to look into that. T. Michalski stated that a marihuana facility was not the highest and best use of lakefront property. He also stated that he wanted to see some type of contract or development agreement to ensure that the condo development was done. F. Peterson stated that he would amend the motion to include a 2-year limit for the condo development. He also pointed out that the marihuana overlay district had several requirements regarding exterior improvements, which would benefit this property. M. Franzak confirmed that a blight elimination plan was part of marihuana overlay district requirements.

F. Peterson amended his motion recommending approval of the request, to include a recommendation that the approval be reviewed in 24 months to allow staff or the Planning Commission to consider revocation of the zoning approval if the condo development had not proceeded as stated. E. Hood supported the amended motion. The amended motion was approved, with T. Michalski, B. Larson, L. Spataro, J. Doyle, F. Peterson, and E. Hood voting aye, and J. Montgomery-Keast, B. Mazade, and S. Gawron voting nay.

PUBLIC HEARINGS

Hearing, Case 2020-26: Request to vacate a portion of the alley between Clay St and Webster Ave between 2nd St and 3rd St, by the Muskegon Museum of Art. M. Franzak presented the staff report. The Muskegon Museum of Art is planning an expansion of their building that will extend over the alley and onto their lot on Clay Ave. They are requesting to vacate a portion of the alley in order to build over it. The other buildings on the block will not have access to the rear of their properties restricted, as the alley will remain open directly behind all of them. Staff recommends approval of the vacation request.

L. Spataro asked if there had been any input from the neighboring businesses. M. Franzak stated that the applicant had submitted documentation indicating that they were agreeable to the request. K. Hallman, Executive Director of the Muskegon Museum of Art, stated that they did not want to close the entire portion of the alley as shown in red in the staff report; they would only close it up to where St. Paul's parking lot began, which was the darker gray parking lot shown in the report. The museum would control only the center section behind their building, not the area behind St. Paul's or the Women's Club. M. Dobry phoned in on behalf of St. Paul's Church, to confirm that the section of the alley abutting the church's parking lot would not be closed. K. Hallberg confirmed that was correct.

A motion to close the public hearing was made by B. Larson, supported by T. Michalski and unanimously approved.

A motion that the request to vacate the portion of the alley between Clay St and Webster Ave, and between 2nd St and 3rd St, that is adjacent to the Muskegon Museum of Art property as discussed above, be recommended to the City Commission for approval, was made by B. Larson, supported by J. Montgomery-

Keast and unanimously approved, with T. Michalski, B. Larson, L. Spataro, J. Doyle, F. Peterson, E. Hood, J. Montgomery-Keast, B. Mazade, and S. Gawron voting aye.

Hearing, Case 2020-27: Request for a special use permit to operate group living/mentoring home for young adults at 1129 Peck St, by Step Up. M. Franzak presented the staff report. Step Up is a non-profit organization that assists young people (ages 18-24) that have graduated out of the foster care system. They currently have an operation at 1670 Peck St. The homes will have a mentor on site as well as a few young adults. The zoning ordinance defines a family as anyone related by blood or marriage and up to two other people. Under this definition, a use like this would not be in conformance of a single family in the one-unit home. Although the property is zoned RM-1, and multifamily homes are allowed, there would still be more than one family living in the single unit. Adult Foster Care Large Group Homes are allowed in this zoning district with a special use permit. While this use would be much smaller in terms of occupants, staff feels that this is similar in nature and should also require a special use permit. Staff recommends approval.

D. Kamps stated that Step Up currently operated 2 such homes in the area and this one would be similarly run. Their intent was to assist foster kids who aged out of the foster system when they turned 18.

No public comments were received. A motion to close the public hearing was made by L. Spataro, supported by J. Montgomery-Keast and unanimously approved.

A motion that the request for a special use permit to operate a group living/mentoring home for young adults at 1129 Peck St be approved, was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved, with T. Michalski, B. Larson, L. Spataro, J. Doyle, F. Peterson, E. Hood, J. Montgomery-Keast, B. Mazade, and S. Gawron voting aye.

Hearing, Case 2020-28: Request to amend the final Planned Unit Development (PUD) at 600 Shoreline Dr (Harbor 31), by Harbor 31, LLC. M. Franzak presented the staff report. In the year 2000, Lakefront Development LLC was approved for a mixed-use PUD at this site. Only a couple of the developments from the plan were built and the remaining developable lots were sold to a new developer. While the original site plan cannot be located, a City Commission resolution approving the plan spells out the PUD's conditions of approval. The original PUD also described the publicly accessible boardwalk; however, staff cannot locate any actual recording of said publicly accessible land. This proposed development project meets most of the standards of the underlying zoning (FBC, Mainstreet Waterfront), however, the original PUD should still be honored because of the publicly accessible boardwalk agreement. A project narrative and site plan were provided. The plan calls for two public access points to the water: One to the boardwalk, located north of the traffic circle, and the other to a seating area west of the traffic circle, between buildings G and H. The plan assumes the successful vacation of a portion of Viridian Dr, which is the topic of the following case. Staff recommends approval of the special use permit with the following conditions: 1) Public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued, and 2) Each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning (FBC, Mainstreet Waterfront) requirements.

M. Franzak stated that the issue of riparian rights had been brought up since the staff report was written. K. Even, an attorney representing the adjacent condominium owners, submitted a letter outlining the condo-owners objection to the request, as they stated that the marina trespassed on their riparian rights. M. Franzak stated that the applicants had submitted a great plan, except for that issue. L. Spataro stated that the boardwalk and seawall had originally been built using Clean Michigan Initiative grant funds, and public waterfront access was a requirement. B. Mazade stated that, generally speaking, the property outside the buildings was considered common area, and it seemed like the condo owners would have riparian rights. He informed staff that the city's attorney on the project in the past had been Rhodes McKee. L. Spataro stated

that, per attorney Even's letter, Planning Commission purview did not include the water side of the boardwalk and therefore did not include riparian rights.

D. Henrickson was the developer. He stated that he had been involved with this property since 2007, and explained its history. They had originally sought a casino for the property but they now wished to proceed with the current development proposal. S. Achram described the proposed plan, which included a mixture of uses, including about 400 residential units plus senior living. He displayed a rendering of the development and stated they would also like to alter Viridian Dr at the east end of the development. A request to vacate that portion was included in the next case. D. Johnson stated that they planned to start development with the waterfront units in June of 2021, and work inward. D. Henrickson stated that he would work with the neighbors on their concerns; he had intended for the marina to be a benefit to them and had only recently been made aware of their opposition to its location. J. Montgomery-Keast asked about any environmental issues. D. Henrickson stated that they had been working with EGLE and several consultants. L. Spataro asked if the streets in the development would be public. D. Henrickson believed they would be, and stated that they would work with staff to ensure that the form-based code requirements were met. L. Spataro asked if the sidewalk would continue past the Boardwalk Flats building shown on the rendering. D. Henrickson stated that it would, and would be accessible to the public. L. Spataro stated that he would like to see pedestrian access to the waterfront from the hotel to make it more walkable. B. Mazade questioned the compatibility of the different facets of the project, as a boat storage building would be located between two residential units. D. Henrickson stated that the development would be a boating anchor, and having the nearby boat storage would be an amenity. They planned to minimize the industrial look of the storage building.

Public comments were heard. A. Murphy was a resident of the adjacent condominiums and was concerned with her riparian rights. She objected to the location of the proposed boat slips and the additional traffic. T. Vitale was an attorney representing the condo owners and followed up on K. Even's comments regarding riparian rights. He wanted the Planning Commission to require a riparian survey. L. Spataro reiterated that it sounded like the Planning Commission's purview ended at the waters edge and as such, they had no jurisdiction over riparian rights. B. Mazade was concerned that the Planning Commission was being asked to approve a plan that included a marina. D. Henrickson stated that he understood the neighbor's concerns; he thought he was providing a solution for them, as he had previously heard that they had wanted boat access. He stated that he would have no problem moving the marina. M. Marcil stated that her back yard overlooked the area of proposed single-family homes, and she would like to see some kind of buffer between their properties. D. Henrickson stated that the plan called for 10-15 feet of green space there, but he had no problem creating a buffer.

A motion to close the public hearing was made by B. Larson, supported by L. Spataro and unanimously approved.

A motion that the request to amend the final Planned Unit Development at 600 Shoreline Dr be recommended for approval to the City Commission, with the following conditions as listed in the staff recommendation: 1) that public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued, and 2) each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning (FBC, Mainstreet Waterfront) requirements, was made by J. Montgomery-Keast, supported by B. Larson and unanimously approved, with T. Michalski, B. Larson, L. Spataro, J. Doyle, F. Peterson, E. Hood, J. Montgomery-Keast, B. Mazade, and S. Gawron voting aye.

B. Mazade asked if the marina was included in the approval. D. Henrickson stated that he was working with a marina consultant and they had several technical issues to consider. S. Achram stated the staff recommendation regarding each separate use/building requiring individual site plan approval should address any concerns. T. Michalski stated that he was satisfied with that. F. Peterson stated that Planning

Commission approval was based on zoning; if there were problems between the developer and property owners, it would have to be worked out between them.

Hearing, Case 2020-29: Request to vacate a portion of Viridian Dr, east of Terrace St, by Harbor 31, LLC. M. Franzak presented the staff report. The applicant has requested to vacate a portion of the east end of Viridian Dr. in an effort to develop the property. Access to the proposed developments would be through a new private drive. Staff recommends approval of the vacation request.

D. Henrickson described the area of Viridian Dr to be vacated, and stated that the current road lead to nowhere, so the vacation would not affect any residents or businesses. They planned to use the area as part of the new development.

There were no questions from board members or the public. A motion to close the public hearing was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved.

A motion that the request to vacate a portion of Viridian Dr, east of Terrace St, be recommended to the City Commission for approval was made by L. Spataro, supported by J. Montgomery-Keast and unanimously approved, with T. Michalski, B. Larson, L. Spataro, J. Doyle, F. Peterson, E. Hood, J. Montgomery-Keast, B. Mazade, and S. Gawron voting aye.

Hearing, Case 2020-30: Request to amend Section 2331 of the zoning ordinance to include 420 Harvey St in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan Canna House, LLC. M. Franzak presented the staff report. In September, the applicant applied to amend the zoning to allow for microbusiness, designated consumption establishment and special event license types. The case was eventually tabled at that meeting. It was taken off the table and denied earlier in this meeting. Staff had started to work on an ordinance amendment that would allow for these three license types, among others, in B-2, B-4, MC, I-1 and I-2 Districts. This building is zoned B-2. The Planning Commission made a recommendation (3-3) to the City Commission on staff's suggested ordinance amendment; however, the City Commission tabled the case because of too many recommended conditions of approval. The applicant is no longer in favor of staff's recommended ordinance amendment because he is now seeking additional license types that staff is not recommending. In addition to bringing back the tabled item, the applicant is now seeking approval of additional license types (Class B grower, processor, retailer) at this location. Notice was sent to properties within 300 feet of this property. At the time of this writing, staff had not received any comments.

B. Larson asked if staff had a recommendation. M. Franzak stated that he did not. L. Spataro asked if this request was consistent with the proposed ordinance going through the City Commission process. M. Franzak stated that it was not.

C. Roberts stated that he was unhappy with the Planning Commission's rulings on previous cases, and didn't think he had been treated fairly. He had no further comment.

A motion to close the public hearing was made by L. Spataro, supported by B. Larson and unanimously approved.

A motion that the request to amend Section 2331 of the zoning ordinance to include 420 Harvey St in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types be recommended to the City Commission for approval, was made by B. Larson and supported by F. Peterson, with discussion continuing on the motion.

M. Franzak clarified the difference between this request and the previous one. A vote was taken on the above motion to approve. The motion failed, with E. Hood and T. Michalski voting aye, and J. Doyle, S. Gawron, F. Peterson, L. Spataro, J. Montgomery-Keast, B. Larson and B. Mazade voting nay.

NEW BUSINESS

None

OLD BUSINESS

None

OTHER

T. Michalski asked that staff notify Planning Commissioners via a memo in the staff report when the City Commission overturned any of their decisions.

There being no further business, the meeting was adjourned at 6:32 PM.

DR

STAFF REPORT

January 14, 2021

Hearing, Case 2021-01: Request for a departure from the form based code section of the zoning ordinance to allow a 5 foot by 17 foot ground sign at 1021 Jefferson St, by General Capital.

SUMMARY

1. The building on this site is currently under construction.
2. The applicant is requesting a departure from the signage section of the form based code.
3. The code allows monument signs a maximum height of four feet except multi-tenant signs may increase to five feet. They can also have a maximum width of three feet except multi-tenant signs may increase to five feet.
4. The proposed sign is five feet tall and 17 feet wide.
5. Notice was sent to everyone within 300 feet of this property.

Proposed Sign Rendering



SIGN STANDARDS

SECTION 2009

2009.12 GROUND SIGN



GROUND SIGN

A free-standing permanent sign that is mounted directly on the ground or ground level foundation and is often used to mark a place of significance or the entrance to a location.

BUILDING TYPES

COTTAGE RETAIL
MULTI-PLEX
CIVIC
FLEX

CONTEXT AREAS

DT DOWNTOWN	MS MAINSTREET
MSW MAINSTREET WATERFRONT	NC NEIGHBORHOOD CORE
NE NEIGHBORHOOD EDGE	UR URBAN RESIDENTIAL

1.0 GROUND SIGN SIZE AND PROPORTION

Refer to Illustration 9.06 for graphic representation of the dimensional requirements regarding Ground Signs.

Refer to Section 2009.13 for dimensional requirements.

- A. Maximum height of Ground Signs shall be five (4) feet except multi-tenant Ground Signs may increase to five (5) feet.
- B. Maximum width of Ground Signs shall be three (3) feet except multi-tenant Ground Signs may increase to five (5) feet.

2.0 GROUND SIGN STANDARDS

- A. Ground Signs shall be designed to be compatible with the character of the surrounding buildings and building materials in order to promote a unified design which compliments the buildings' massing, scale and character.
- B. Ground Sign content may include letters and corporate logos that are permanently affixed to the sign.
- C. Ground Sign content is not permitted to be changeable copy, except for gasoline price signs, directory signs listing more than one tenant, and signs advertising restaurant food specials, films, and live entertainment, which change on a regular basis.
- D. Ground Signs shall have content on both sides of the sign with building address clearly depicted.

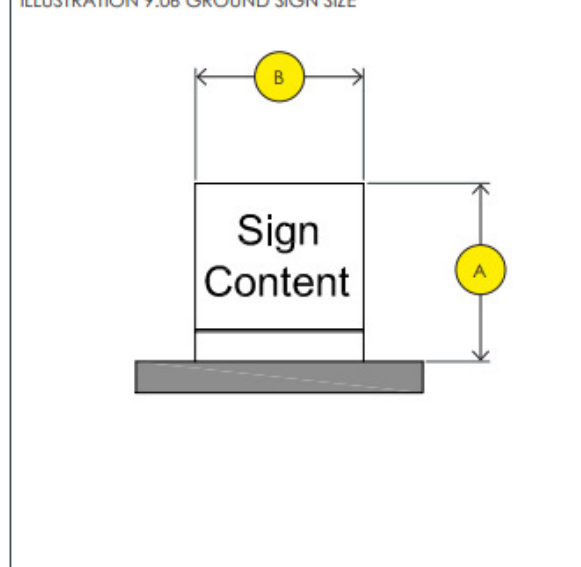
3.0 GROUND SIGN QUANTITY

- A. The number of Ground Signs allowed per building shall not exceed the quantities indicated in Section 2009.14.
- B. Ground Signs may be used in conjunction with other Sign Types.

4.0 GROUND SIGN ILLUMINATION

- A. Ground Signs may be externally or internally illuminated per the requirements of Section 2334, 3, f.

ILLUSTRATION 9.06 GROUND SIGN SIZE



5.0 GROUND SIGN LOCATION

- A. Ground Signs are permitted in the front yard setback of the following buildings:
 1. Cottage Retail
 2. Multi-Plex
 3. Civic
- B. Ground Signs shall be setback a minimum 10' from front property line.

STAFF RECOMMENDATION

Staff recommends approval of the request. It appears to be more of an art piece than a sign. It is not illuminated and should not cause any issues.

DELIBERATION

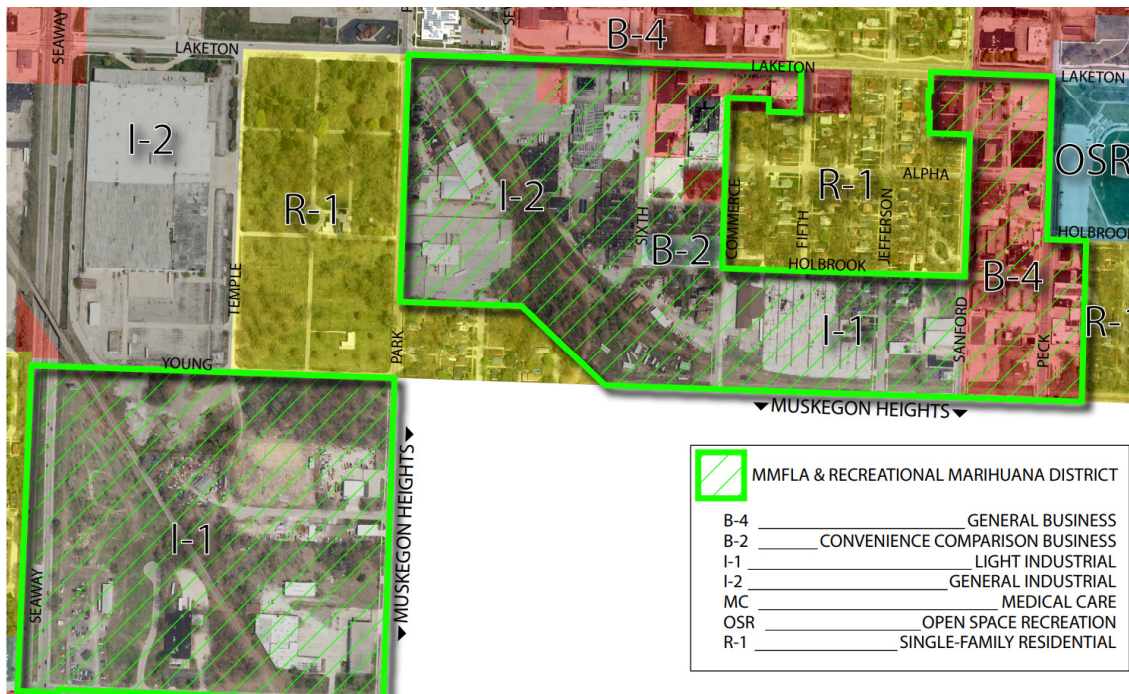
I move that the request for a departure from the form based code section of the zoning ordinance to allow a 5 foot by 17 foot ground sign at 1021 Jefferson St be (approved/denied)

Hearing, Case 2021-02: Request to amend section 2331 of the zoning ordinance to include 885 E Apple Ave in the marihuana facilities overlay district, by Khi Guy.

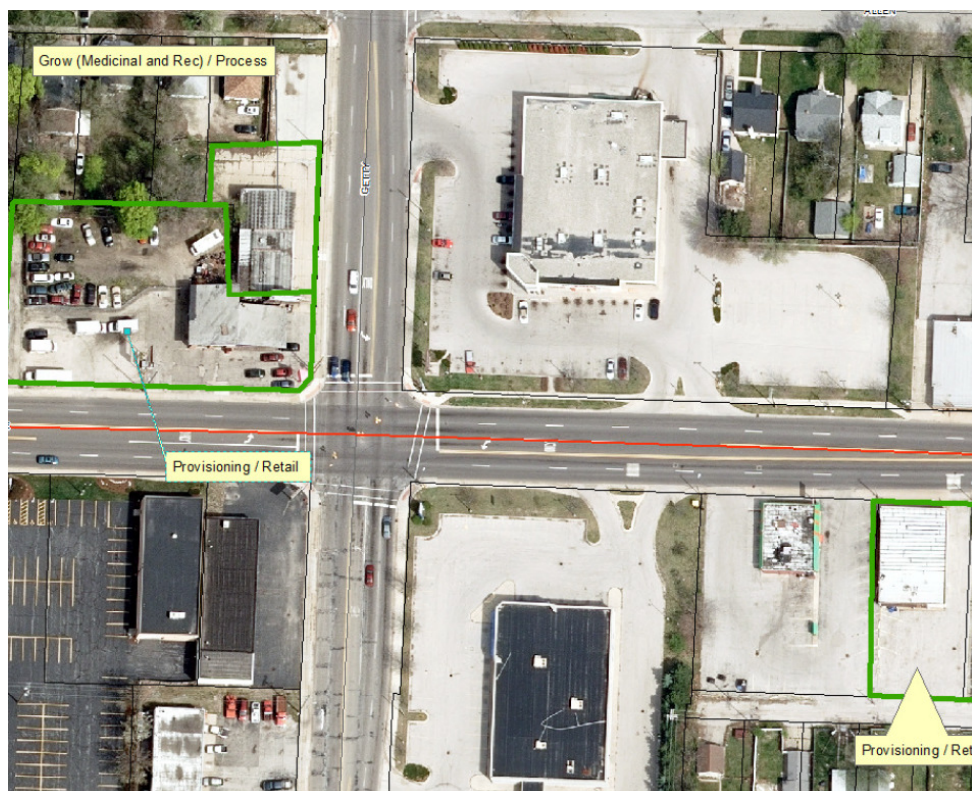
SUMMARY

1. The applicant is requesting to amend the Marihuana Facilities ordinance to be included into the overlay district. They are seeking approval to be allowed to have a retail license type.
2. This property was recently denied inclusion into the overlay district as a staff requested initiative. This request is from the property owner and potential business partner.
3. Please see the maps below depicting the current overlay districts.
4. Notice was sent to everyone within 300 feet of this property.

Original Overlay District



Expanded Overlay Districts



Zoning Map



Aerial Map



DELIBERATION

I move that the request to amend section 2331 of the zoning ordinance to include 885 E Apple Ave in the marihuana facilities overlay district for retail license types be recommended to the City Commission for (approval/denial).

Hearing, Case 2021-03: Request for a departure from the parking ordinance and the window transparency ordinance at 623 and 639 W Clay Ave, by 639 W Clay Ave, LLC.

SUMMARY

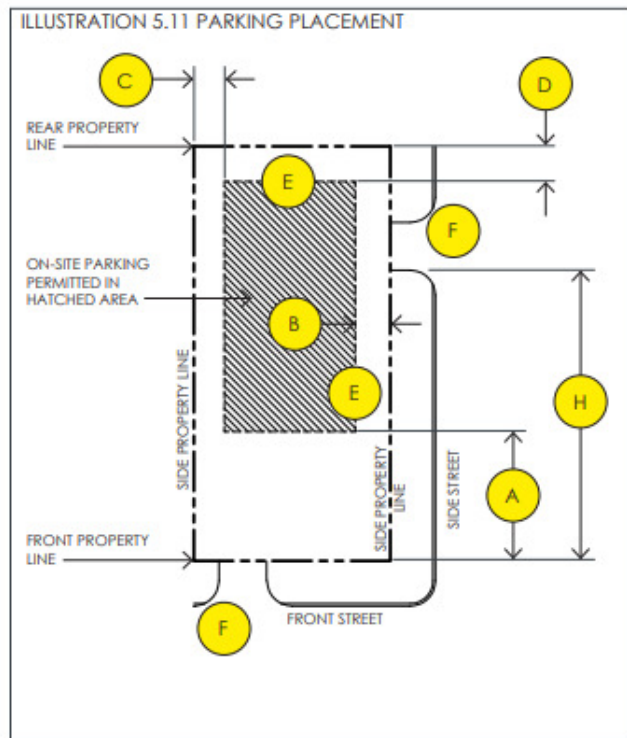
1. This location has recently been approved for marihuana microbusiness license types, which allows for the growing, processing and sales of marihuana on site.
2. The applicant is requesting a departure from the window transparency section of the form based code. The code requires that all windows on the first floor have at least a 70% Visual Light Transmittance. The applicant is stating that the State of Michigan is requiring that the sales space not be visible from outside, however, there are several examples here in Muskegon where transparency is used on the glass facing the street at these type of businesses.
3. The properties are zoned Form Based Code, Neighborhood Edge. The building is located at 639 W Clay Ave and the vacant lot at 623 was recently split in half. The two properties cannot be combined because of lot size restrictions in the ordinance. Such a combination would result in the final parcel being 198'-wide at the front property line. Only a Flex Building Type can be on a lot that wide, and the Flex Building Type requires that the building width at the front street be built to a minimum of 75% of the overall width of the front street property line (min. 148.5' wide building). A portion of the lot could be combined to max out the lot width at 150' for either the Mixed Use or Retail Building Types, but those both bump that 75% minimum building width requirement up to 90% (min. 135' wide building).
4. The applicant is also seeking departures from the parking placement section of the ordinance. Please see the zoning ordinance excerpt on the following page. Parking lots must be accessed from the alley and must be setback at least 40 feet from the front property line. Also, parking lots may not be used as a principal use on a property. Since the properties cannot be combined, a departure on the use is also required. The applicant has stated that they need the parking spaces to allow for curbside service.



5.0 PARKING PLACEMENT

Refer to Illustration 5.11 for on-site parking placement.

- A. Front Setback:
 - 40 feet minimum from front property line.
- B. Side Setback (from side street):
 - 5 feet minimum from side property line.
- C. Side Setback (from non-street locations):
 - 5 feet from side property line.
- D. Rear Setback:
 - 5 feet from rear property line at non-street locations.
 - 5 feet from rear property line at street locations.
- E. Parking located at side or rear street locations shall be screened from the street as required by Section 2008.14.
- F. Parking / service areas shall not be accessed from front streets, unless an alley or side street is not available for driveway placement. Maximum width of driveway is 20 feet.
- G. Driveway access location:
 - Corner lot: 40 feet minimum from street corner.
 - Interior lot: within 5 feet of side property line, when alley is not available.



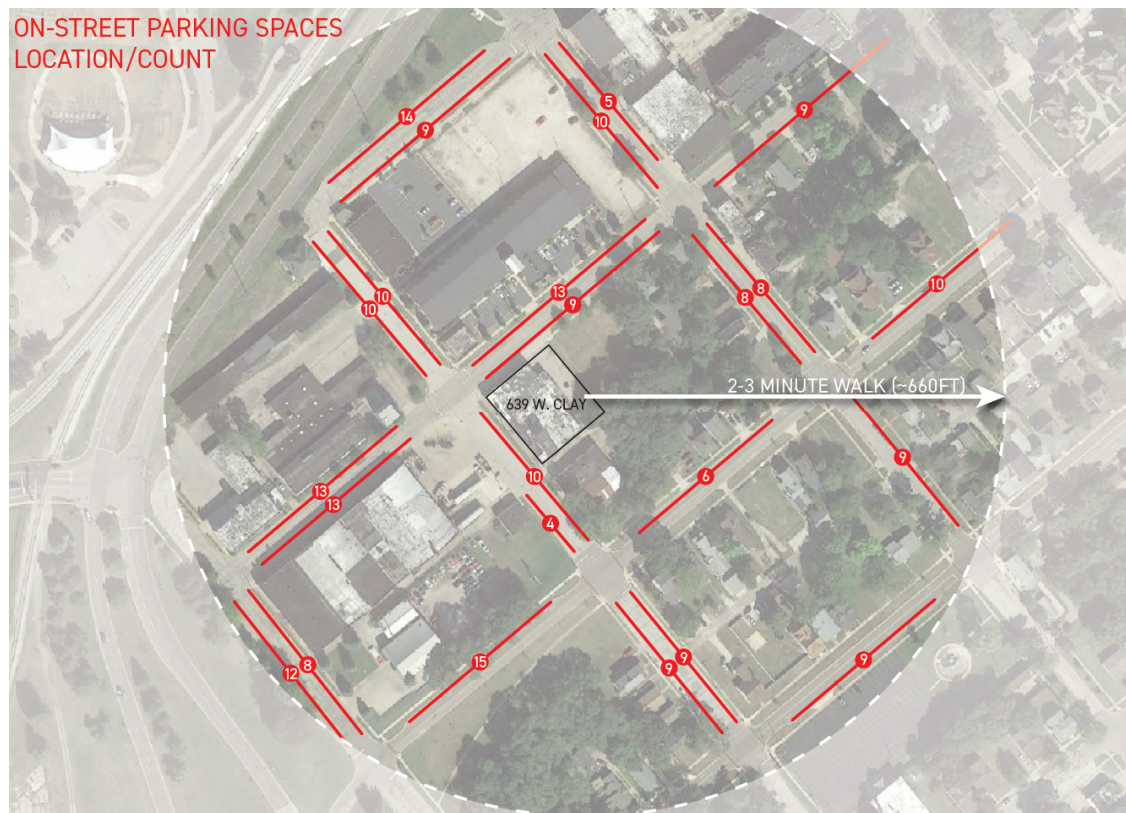
STAFF RECOMMENDATION

- There are around 232 on-street parking spaces within a 2-3 minute walk of this property that are publicly available (see map below). By removing the existing curb cuts on Clay Ave. that are tied to this property and the neighboring vacant lot, an additional 4-5 on-street parking spaces directly adjacent to the property could be restored.
- Please see the example below of a conforming parking lot on this site drawn by staff. The building itself, along with 5' rear and side parking setbacks, a 10' parking setback from the building, and a 40' front parking setback, limit the total parking area to about 2, 443 SF
- Staff does not recommend approval of the parking departures because they do not contribute the walkable development pattern that this code was developed to achieve. There is an excessive amount of parking lots in our downtown (See the 2015 Parking Strategy on our website) and on-street parking is plentiful and free. Remaining downtown lots should focus on the development of buildings, not parking lots. The addition of more parking spaces on vacant lots does not make for a walkable downtown and is more appropriate for suburban development.
- Staff also does not recommend approval of the departure for the light transparency requirement. If the sales space must not be visible from the street, then accommodations inside the building can be made (i.e. walls, blinds, etc). The code was implemented to help create an attractive, welcoming downtown and blacked out windows help create the opposite effect. More effort should be made to create a space that is welcoming from the outside.

Conforming Parking Example Provided by Staff



ON-STREET PARKING SPACES LOCATION/COUNT



DELIBERATION

I move that the following departure requests be (approved/denied) for the project at 623 and 639 W Clay Ave:

1. The windows on the first floor do not have to meet the 70% Visual Light Transmittance requirement.
2. Parking may be the principal use permitted on 623 W Clay Ave.
3. The parking lot may be located within the 40 foot front setback.
4. The parking lot may be accessed from Clay Ave.